

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE**

FOREST LABORATORIES, INC.,
FOREST LABORATORIES HOLDINGS,
LTD., MERZ PHARMA GMBH & CO.
KGAA, and MERZ PHARMACEUTICALS
GMBH,

Plaintiffs,

v.

COBALT LABORATORIES INC., LUPIN
PHARMACEUTICALS, INC., LUPIN LTD.,
ORCHID PHARMACEUTICALS INC.,
ORCHID CHEMICALS &
PHARMACEUTICALS LTD. (d/b/a ORCHID
HEALTHCARE), TEVA
PHARMACEUTICALS USA, INC.,
UPSHER-SMITH LABORATORIES, INC.,
WOCKHARDT USA INC., and
WOCKHARDT LIMITED,

Defendants.

C.A. No. 08-021 (GMS)

**PLAINTIFFS' REPLY TO DEFENDANTS LUPIN PHARMACEUTICALS,
INC.'S AND LUPIN LTD.'S COUNTERCLAIMS**

Plaintiffs Forest Laboratories, Inc. and Forest Laboratories Holdings, Ltd.

(collectively "Forest") and Merz Pharma GmbH & Co. KGaA and Merz Pharmaceuticals GmbH

(collectively "Merz"), for their Reply to the numbered paragraphs of the Counterclaims of

Defendants Lupin Pharmaceuticals, Inc. and Lupin Ltd. (collectively "Lupin") (D.I. 35), hereby

allege as follows:

THE PARTIES

78. Admitted, upon information and belief.

79. Admitted, upon information and belief.

80. Admitted.

81. Admitted.

82. Admitted.

83. Admitted.

84. Admitted that Merz is the owner of United States Patent No. 5,061,703 (“the ‘703 patent”), entitled “Adamantane Derivatives in the Prevention and Treatment of Cerebral Ischemia.” Denied that the ‘703 patent or its Reexamination Certificate is attached as an exhibit to Lupin’s Counterclaims.

85. Admitted.

JURISDICTION AND VENUE

86. Admitted that this Court has subject matter jurisdiction over Lupin’s counterclaims and that Lupin’s counterclaims arise under the United States Patent Act, 35 U.S.C. § 1 *et seq.* Denied that Lupin’s counterclaims are “substantial” or that there is any factual or legal basis for them.

87. Denied that this case presents an actual controversy within the meaning of 28 U.S.C. §§ 2201 and 2202.

88. Admitted.

THE CONTROVERSY

89. Admitted, upon information and belief.

90. Admitted insofar as “the present action” refers to claims brought by Forest and Merz (collectively “Plaintiffs”) against Lupin and other defendants. Denied insofar as “the present action” refers to Lupin’s counterclaims against Plaintiffs.

COUNTERCLAIM COUNT I

91. Plaintiffs restate and incorporate by reference their responses to the allegations contained in Counterclaim Paragraphs 78-90 as though set forth specifically herein.

92. Denied.

93. Denied.

COUNTERCLAIM COUNT II

94. Plaintiffs restate and incorporate by reference their responses to the allegations contained in Counterclaim Paragraphs 78-93 as though set forth specifically herein.

95. Denied.

COUNTERCLAIM COUNT III

96. Plaintiffs restate and incorporate by reference their responses to the allegations contained in Counterclaim Paragraphs 78-95 as though set forth specifically herein.

97. Admitted.

98. Admitted.

99. Denied.

100. Denied.

PRAYER FOR RELIEF

Wherefore, Plaintiffs deny that Lupin is entitled to any relief, either as prayed for in its Counterclaims or otherwise.

Plaintiffs further deny each allegation contained in Lupin's Counterclaims that was not specifically admitted, denied, or otherwise responded to in this Reply to Defendants Lupin Pharmaceuticals, Inc.'s and Lupin Ltd.'s Counterclaims.

MORRIS, NICHOLS, ARSHT & TUNNELL LLP

/s/ James W. Parrett, Jr. (#4292)

Jack B. Blumenfeld (#1014)
Maryellen Noreika (#3208)
James W. Parrett, Jr. (#4292)
1201 North Market Street
P.O. Box 1347
Wilmington, DE 19899-1347
(302) 658-9200
jblumenfeld@mnat.com
mnoreika@mnat.com
jparrett@mnat.com

Attorneys for Plaintiffs

Of Counsel:

John Desmarais
Gerald J. Flattmann, Jr.
Melanie R. Rupert
KIRKLAND & ELLIS LLP
Citigroup Center
153 East 53rd Street
New York, NY 10022
(212) 446-4800

F. Dominic Cerrito
Daniel L. Malone
Eric C. Stops
JONES DAY
222 East 41st Street
New York, NY 10017
(212) 326-3939

February 26, 2008

1660152

CERTIFICATE OF SERVICE

I hereby certify that on February 26, 2008 I electronically filed the foregoing with the Clerk of the Court using CM/ECF, which will send notification of such filing to:

Mary B. Matterer, Esquire
MORRIS JAMES LLP

Kelly E. Farnan, Esquire
RICHARDS, LAYTON & FINGER, P.A.

Frederick L. Cottrell, III, Esquire
Anne Shea Gaza, Esquire
RICHARDS, LAYTON & FINGER, P.A.

Richard L. Horwitz, Esquire
David E. Moore, Esquire
POTTER ANDERSON & CORROON LLP

Richard D. Kirk, Esquire
Ashley B. Stitzer, Esquire
BAYARD, P.A.

I further certify that I caused to be served copies of the foregoing document on February 26, 2008 upon the following in the manner indicated:

Mary B. Matterer, Esquire
MORRIS JAMES LLP
500 Delaware Avenue
Suite 1500
Wilmington, DE 19801
Counsel for Cobalt Laboratories Inc.

*VIA ELECTRONIC MAIL
and HAND DELIVERY*

William A. Rakoczy, Esquire
Paul J. Molino, Esquire
Deanne M. Mazzochi, Esquire
Neil A. Benchell, Esquire
John Polivick, Esquire
RAKOCZY MOLINO MAZZOCHI SIWIK LLP
6 West Hubbard Street
Suite 500
Chicago, IL 60610
Counsel for Cobalt Laboratories Inc.

VIA ELECTRONIC MAIL

Kelly E. Farnan, Esquire
RICHARDS, LAYTON & FINGER, P.A.
One Rodney Square
920 North King Street
Wilmington, DE 19801
*Counsel for Wockhardt USA Inc. and
Wockhardt Limited*

*VIA ELECTRONIC MAIL
and HAND DELIVERY*

Frederick L. Cottrell, III, Esquire
Anne Shea Gaza, Esquire
RICHARDS, LAYTON & FINGER, P.A.
One Rodney Square
920 North King Street
Wilmington, DE 19801
Counsel for Upsher-Smith Laboratories Inc.

*VIA ELECTRONIC MAIL
and HAND DELIVERY*

Richard L. Horwitz, Esquire
David E. Moore, Esquire
POTTER ANDERSON & CORROON LLP
1313 North Market Street – 6th Floor
Wilmington, DE 19801
*Counsel for Orchid Pharmaceuticals Inc. and
Orchid Chemicals & Pharmaceuticals Ltd
(d/b/a Orchid Healthcare)*

*VIA ELECTRONIC MAIL
and HAND DELIVERY*

Richard D. Kirk, Esquire
Ashley B. Stitzer, Esquire
BAYARD, P.A.
222 Delaware Avenue
Suite 900
Wilmington, DE 19801
*Counsel for Lupin Pharmaceuticals USA, Inc.
and Lupin, Ltd.*

*VIA ELECTRONIC MAIL
and HAND DELIVERY*

Douglass C. Hochstetler, Esquire
D. Christopher Ohly, Esquire
Sailesh K. Patel, Esquire
SCHIFF HARDIN LLP
6600 Sears Tower
Chicago, IL 60606
*Counsel for Lupin Pharmaceuticals USA, Inc.
and Lupin, Ltd.*

VIA ELECTRONIC MAIL

/s/ James W. Parrett, Jr. (#4292)

James W. Parrett, Jr. (#4292)